



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIGGS AND MORGAN P.A.
2200 IDS CENTER 80 SOUTH 8TH ST
MINNEAPOLIS MN 55402

COPY MAILED

FEB 26 2007

In re Application of
Eckert et al.
Application No. 09/916,636
Filed: 07-26-2001
Attorney Docket No. 9365.17031

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed on January 31, 2007, to withdraw the holding of abandonment.

On June 7, 2006, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the Office mailed a Notice of Abandonment on January 19, 2007.

Petitioner asserts that a proper reply was filed timely. In support of the assertion, petitioner submits a copy of a return date-stamped postcard, acknowledging receipt of "Amendment and Response to Office Action of June 7, 2006," in the USPTO on August 25, 2006. A copy of the previously submitted reply accompanies the petition.

The Office has not located the original reply. Nevertheless, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." MPEP 503. Accordingly, it is concluded that the reply was filed timely in the USPTO on August 25, 2006, but was not matched with the application.

For the reasons stated above, the petition is **granted**. The holding of abandonment is hereby withdrawn and the application restored to pending status. The Office will accept the copy of the reply submitted with the petition on January 31, 2007, in place of the reply submitted on August 25, 2006.

This matter is being referred to Technology Center Art Unit 3711 for appropriate action on the reply received with petition.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions